UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 AUG 26 AM 9:30
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **Gaston ORTIZ-Ortiz,** Defendant	Magistrate Docket No. '08 MJ 2626 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **August 24, 2008** within the Southern District of California, defendant, **Gaston ORTIZ-Ortiz,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF August, 2008

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

8/24/08

CONTINUATION OF COMPLAINT:
Gaston ORTIZ-Ortiz

PROBABLE CAUSE STATEMENT

On August 24, 2008, Supervisory Border Patrol Agent Dreyer and Border Patrol Agent Miller were performing line watch duties in the Brown Field, California area of operations. At approximately 7:30 PM, Agent Dreyer and Agent Miller were notified of a seismic intrusion device Northwest of the Tecate, California Port of Entry.

Agent Miller observed a group walking eastbound and notified Agent Dreyer of the group's direction of travel. Agent Dreyer was able to locate six individuals attempting to hide in brush. Agent Dreyer identified himself as a United States Border Patrol Agent and questioned all six individuals as to their legal right to be present in the United States. All six individuals, including one individual later identified as the defendant **Gaston ORTIZ-Ortiz**, admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to be in the United States legally. At approximately 8:00 PM, all six individuals were arrested and taken to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant ORTIZ, was previously deported to **Mexico** on **September 17, 2007** through **San Ysidro, California.** These same records show that ORTIZ has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, stated he understood his rights, and was willing to answer questions without the presence of an attorney. Ortiz also stated, that he is a citizen and national of Mexico, illegally present in the United States with no immigration documents that would allow him to enter in or remain legally. He also stated he was going to Anaheim, California.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF **August, 2008**

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE